



North Carolina Department of Environment and Natural Resources

Division of Air Quality

Beverly Eaves Perdue
Governor

Sheila C. Holman
Director

Dee Freeman
Secretary

November 2, 2012

Gwendolyn Keyes Fleming
Regional Administrator
USEPA, Region 4
Sam Nunn Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

Subject: Section 110(a)(1) and (2) Infrastructure Requirements for the 2008 Ozone Standards

Dear Ms. Fleming:

I am pleased to submit the North Carolina certification demonstrating that the North Carolina Department of Environment and Natural Resources, Division of Air Quality (NCDAQ) has met the requirements of the Clean Air Act (CAA) Section 110(a)(1) and (2) infrastructure State Implementation Plan (SIP) requirements for the 2008 ozone National Ambient Air Quality Standards. Since guidance for the 2008 8-hour ozone Infrastructure SIP has not been released, the NCDAQ relied on the United States Environmental Protection Agency's (USEPA's) October 14, 2011 memorandum, "Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Section 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS)."

Please find attached the "North Carolina Certification for Clean Air Act Section 110(a)(1) and (2) 2008 Ozone Requirements" Infrastructure SIP as Attachment 1. Included with the certification document is a copy of the North Carolina General Statutes referenced in the Infrastructure SIP and copies of the USEPA memorandums and notices used to develop the Infrastructure SIP (Attachments 2 and 3). Attachment 4 contains the Public Notice Report, including comments received and NCDAQ responses. An exact duplicate electronic copy of the entire package is provided on compact disk.

The North Carolina General Statutes are provided as referenced material only. It is not the intent of the NCDAQ to have these statutes adopted into the SIP. The NCDAQ believes that the State's statutes are not required to be adopted into the SIP based upon the USEPA Federal Register (FR) notice on May 19, 2010 regarding California's legal authority (75 FR 27938). In this final rule the USEPA states, "We also noted that the actual statutory provisions and other legal documents relied upon to support a State's assurance of adequate legal authority need not be approved into the SIP under CAA section 110 or [USEPA's] SIP regulations in 40 [Code of Federal Regulation] part 51 (although such provisions are required to be submitted with the plan). Thus, [USEPA] could approve, consistent with CAA and [USEPA] requirements, and did so in this instance, a wholesale revision to the original legal authority chapter without also approving the actual statutory provisions and other legal documents cited there."

The NCDAQ issued a public notice announcement on April 23, 2012, indicating that the Infrastructure SIP certification documentation was available for public comment until May 28, 2012 and posted the SIP on the NCDAQ's website for public review. The public notice announcement was sent to a number of distribution lists managed by the NCDAQ. These distribution lists included numerous


stakeholders from industry, environmental groups, and transportation partners. The NCDAQ believes that sending the public notice announcement to these groups is more effective than publishing the notices in a few local newspapers and is consistent with the requirements described in the April 6, 2011, memorandum, "Regional Consistency for the Administrative Requirements of State Implementation Plan Submittals and the Use of Letter Notices." Additionally, the NCDAQ website has Rich Site Summary (RSS) feed which regularly delivers changes to the website content to those that have signed up for it.

The public notice announcement also indicated that the public may request a public hearing. There were no requests for a public hearing. The USEPA offered no comments, but stated that neither the Clean Air Interstate Rule (CAIR) or the Cross-State Air Pollution Rule (CSAPR) are appropriate to comply with 110(1)(2)(D)(i)-(ii) for the 2008 8-hour Ozone NAAQS. The NCDAQ has added clarifying language in the Infrastructure SIP to address this statement.

A comment letter was received from the Maryland Department of Environment (MDE), which is included as Attachment 4 along with NCDAQ's responses. MDE commented that modeling conducted by the USEPA showed North Carolina was "linked" to significant contributions of ozone in Maryland, and that NC should be doing more to address transported pollution pursuant to the "good neighbor" provisions of Section 110(a)(2)(D). The NCDAQ disagrees with these comment based on an extensive review of emissions data, ozone design values, and back trajectory modeling analysis (see Attachment 4). The NCDAQ has demonstrated that: (1) EPA modeling was based on a significant overestimate of both present-day and future North Carolina emissions, (2) NOx emissions from North Carolina's Electric Generating Units have been declining and further reductions are expected as coal-fired units are retired or converted to natural gas units by 2015, (3) ozone design values show improvements in air quality across NC and Virginia, while ozone concentrations over Maryland during the same time have either partially improved or gotten worse, and (4) trajectory analysis show that most if not all of the exceedances within Maryland can be traced to either transport from states other than North Carolina or intra-state sources within Maryland.

The NCDAQ believes it has in good faith addressed the requirements of Section 110(a)(1) and (2) through the various SIP submittals. If you should have any questions regarding this submittal, please contact Sushma Masemore or my staff at (919) 707-8700.

Sincerely,


for Sheila C. Holman

Enclosures:

cc: Michael Abraczinskas, NCDAQ
Sushma Masemore, NCDAQ
Scott R. Davis, USEPA
Lynorae Benjamin, USEPA
William Barnette, Forsyth County Office of Environmental Assistance and Protection
Donald Willard, Mecklenburg County Air Quality
David Brigman, Western Regional Air Quality Agency